permission to Griffin to drive or whether he had contracted himself out of being able to accord permission is, in our view, of no great moment for, at the time of the accident Griffin was driving the car on the road in breach of an essential condition of his provisional licence and, therefore, was not by law permitted to drive a car on the road.

It has been submitted on behalf of the appellants that, as the law makes it an offence not to comply with a condition subject to which a provisional license is granted, it follows that in the absence of an express provision any provisional licence holder on the road who is in breach of the condition of his licence is still "the holder of a licence". The form of a provisional licence reads as follows :—

"The Motor Vehicles (Driving Licences) Rules 1948
[Rule 14(4)]

Form of Provisional Licence
Road Traffic Ordinance 1941
DRIVING LICENCE

.....
of .....
is hereby licensed to drive .....
from ..... 19 ....., until ..... 19 .....
inclusive, subject to the conditions prescribed in paragraph (4) of Rule 14 of the Motor Vehicles (Driving Licences) Rules, 1948.
Fee of $2 received.
(Issuing authority) .....".

It is clear to us that the law only permits a person who is learning to drive to drive a car on a road if he complies with the prescribed regulations. If he drives a car in breach of those conditions, then he is driving it without authority under the law.

We would dismiss this appeal with costs.

Appeal dismissed.

Solicitors : *Murphy, Dunbar & Chung; Philip Hoalim & Co.*

ANTHONY v. ANTHONY

[O. C. J. (Smith J.) April 22, 1957]

[K. L. — Divorce Suit No. 2 of 1956]

Divorce Ordinance, 1950, s. 4(3)(b) — Restitution of conjugal right; — Divorce and Matrimonial Causes Rules, 1953, rr. 4(1)(d) & 21 — Residence — Particulars by affidavit instead of by letter — Costs.

Where the petitioner in his petition for restitution of conjugal rights merely alleged residence within the Federation of Malaya, and not the precise address at which he had his residence, this was held to be sufficient.

And where the petitioner delivered his particulars by affidavit to the respondent at her request in compliance with rule 21 of the Divorce and Matrimonial Causes Rules, 1953, instead of by written letter, costs in respect of the particulars, when awarded, should be limited to costs for giving particulars by written letter.

PETITION FOR DIVORCE.

Williamson for the respondent.

K. L. Devaser for the petitioner.

Smith J. : — I have reserved judgment on paragraphs 1 and 4 of the respondent's application (31) dated 19th February, 1957.

Paragraph 1 of the application relates to particulars of residence. Section 4(3) (b) of the Divorce Ordinance, 1950, provides that to give the Court jurisdiction in a suit for restitution of conjugal rights both parties to the marriage must reside in the Federation at the commencement of the proceedings. Rule 4(1) (d) of the Divorce and Matrimonial Causes Rules, 1953, provides that "the petition shall state . . . the residence . . . of the parties to the marriage . . . at the date of the institution of the cause." In his petition the petitioner has stated that he resides in the Federation. He has not given a precise address at which he has his residence.

The respondent has argued that it is necessary that a precise address be given. The principle authority which he can quote is a form of petition to be found in *Latey* on Divorce. In that form the information regarding residence is given in the form of a precise address. In *Rayden* on Divorce, 6th edition, however, paragraph 7 of Form 8 at page 1036 — Wife's petition for restitution of conjugal rights — jurisdiction based on residence — reads as follows :—

"Jurisdiction by residence. 7. That in the alternative the petitioner and the respondent were resident in England at the time when cohabitation between them ceased as set out in paragraph 9 hereof."

I consider that this supports the petitioner's argument that all that is required is that the petitioner must allege residence. I agree with Mr. Devaser that that bare statement is sufficient. If particulars of the residence are required, these can be obtained in the usual way but I can see no necessity for any precise residence to be alleged in the petition. Paragraph 1 of the application is therefore dismissed.

In the proceedings in open Court on 29th January, 1957, the respondent asked that particulars of residence within the Federation be supplied to her before she amends her own pleadings. It appears that as a result of this request the affidavit of the petitioner of 4th February, 1957 (27 on file) was filed. The petitioner has chosen to comply with rule 21 by delivering his particulars by affidavit when only a letter was necessary. I do not consider that there is any necessity for the affidavit to be struck out but the costs which might ultimately be awarded in respect of particulars should be limited to the costs for giving particulars by written letter.

Paragraph 4 of the application is dismissed.

Order accordingly.